

**Remarks**

In the Office Action mailed February 8, 2005, the Examiner rejected all pending Claims 58-114. Applicants believe all pending claims, as originally filed, are allowable over the prior art. Applicants respectfully request allowance of pending Claims 58-114.

***Double Patenting***

The Examiner rejected Claims 58, 72, 89, 100, and 111 as being unpatentable over Claims 1, 4, 5, 7, 9, 10, 13, 15, and 18 of U.S. Patent No. 6,526,046 under the judicially created doctrine of double patenting. Applicants disagree with the Examiner's statements characterizing the subject matter claimed in this application and its relationship to the claims of U.S. Patent No 6,526,046. The Examiner indicated that a timely filed terminal disclaimer may be used to overcome this double-patenting rejection. Applicants are willing to provide a terminal disclaimer if the Examiner agrees that the claims in the current form are allowable over the prior art.

**Claim Rejections – 35 U.S.C. § 103**

The Examiner rejected Claims 58–65, 67, 72–79, 81, 89–95, and 99–106 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,610,910 (“*Focsaneanu*”) further in view of U.S. Patent No. 5,050,164 (“*Chao*”).

The Examiner rejected Claims 66, 69–70, 80, 83–84, 96–97, and 107–110 under 35 U.S.C. § 103(a) as being unpatentable over *Focsaneanu* further in view of *Chao*, further in view of U.S. Patent No. 6,560,222 (“*Pounds*”).

The Examiner rejected Claims 68, 82, 86, and 111–112 under 35 U.S.C. § 103(a) as being unpatentable over *Focsaneanu* further in view of *Chao*, further in view of U.S. Patent No. 6,201,562 (“*Lor*”).

The Examiner rejected Claims 71, 85, 98, and 109 under 35 U.S.C. § 103(a) as being unpatentable over *Focsaneanu* further in view of *Chao*, further in view of U.S. Patent No. 6,563,829 (“*Lyles*”).

The Examiner rejected Claims 87–88 and 113–114 under 35 U.S.C. § 103(a) as being unpatentable over *Focsaneanu* further in view of *Chao* and *Lor*, further in view of U.S. Patent No. 6,678,253 (“*Health*”).

Applicants disagree with the Examiner's rejections and respectfully request allowance of all pending Claims 58-114.

**Independent Claim 58 and Dependent Claims 59-71**

Independent Claim 58, as amended, recites:

A gateway for communicating telecommunication information, comprising:

a telecommunication interface module operable to receive first telecommunication information for a first subscriber and second telecommunication information for a second subscriber from a telecommunication network; and

one or more packetization modules operable to generate first data packets for communicating the first telecommunication information to first customer premises equipment according to a first data communication protocol associated with the first subscriber and to generate second data packets for communicating the second telecommunication information to second customer premises equipment according to a second data communication protocol associated with the second subscriber.

The Examiner rejected Claim 58 under 35 U.S.C. § 103(a) as being unpatentable over *Focsaneanu* further in view of *Chao*. However, the Examiner's cited references do not disclose, teach, or suggest "one or more packetization modules operable to generate first data packets for communicating the first telecommunication information to first customer premises equipment according to a first data communication protocol associated with the first subscriber and to generate second data packets for communicating the second telecommunication information to second customer premises equipment according to a second data communication protocol associated with the second subscriber," as recited in Claim 58. The Examiner incorrectly relies on *Focsaneanu* to show this limitation.

The Examiner has yet to provide an adequate response to Applicants' argument that *Focsaneanu* does not disclose, teach, or suggest generating data packets for communicating telecommunication information to customer premises equipment according to at least two data communication protocols. The mention of protocol adaptation cited by the Examiner relates to communication across a transport network (such as the PSTN or a data network in Figure 6)—not communication from access module 208 to CPE connector 202, 204, and 206 using local access 210. *Focsaneanu* does not indicate that two or more protocols may be used to generate data packets for communicating voice or other telecommunication information from access module 208 to CPE connector 202, 204, and 206 using local access 210. Indeed, *Focsaneanu* expressly indicates that communication between each CPE

connector 202, 204, and 206 and access module 208 over local access 210 involves the use of one common protocol:

This is accomplished by the use of a common protocol for encapsulating the data and signaling information between the CPE connector and the access module (this protocol is identical for all access media) and a transmission protocol appropriate for each access medium (e.g. 2B1Q for copper pairs).

(Col. 6, ll. 60-65.) (emphasis added). This expressly teaches away from Applicants' invention which involves using more than one data communication protocol to generate data packets for communicating telecommunication information to subscribers' customer premises equipment. The Examiner does not contest this basis for allowance.

The Examiner's comments do not respond to this argument for allowance.

- The Examiner points out that the data switch network 214 may use different protocols. (p. 17). This, however, is consistent with Applicants' argument: *Focsaneanu* discusses different data communication protocols with reference to communication across the data network—not communication from the access module to the CPE connector using the local access.
- The Examiner points out that Figure 5 shows an ISDN environment. (p. 18). That, however, does not respond to Applicants' argument for allowance because *Focsaneanu* does not disclose that the ISDN network uses two or more data communication protocols to generate data packets for communicating telecommunication information to subscribers' customer premises equipment.
- The Examiner points out that a controller performs protocol conversion in PAD 254. (p. 18) (citing col. 8, ll. 15-25). However, this is again consistent with Applicants' argument. The passage cited by the Examiner establishes that the controller generates data packets for communication between PAD 254 and the data network: "Upon identification of the type of service requested, the controller performs address conversion, protocol conversion, rerouting, etc., and exchanges packetized data formed at PAD 254 (packet assembly/disassembly) with the data network in accordance with information stored in the database." (Col. 8, ll. 19-24) (emphasis added).

Thus, the Examiner does not cite to any disclosure in *Focsaneanu* showing the use of two or more data communication protocols to generate data packets for communicating telecommunication information to subscribers' customer premises equipment.

For at least these reasons, the Examiner's cited references do not disclose the gateway of Claim 58. Accordingly, Applicants respectfully request reconsideration and allowance of independent Claims 58, as well as dependent Claims 59-71 which dependent from Claim 58.

**Independent Claim 72 and Dependent Claims 73-88**

Independent Claim 72, as amended, recites:

A method for communicating telecommunication information, comprising:

receiving first telecommunication information for a first subscriber from a telecommunication network;

generating first data packets for communicating the first telecommunication information to first customer premises equipment according to a first data communication protocol associated with the first subscriber;

receiving second telecommunication information for a second subscriber from the telecommunication network; and

generating second data packets for communicating the second telecommunication information to second customer premises equipment according to a second data communication protocol associated with the second subscriber.

The Examiner rejected Claim 72 under 35 U.S.C. § 103(a) as being unpatentable over *Focsaneanu* further in view of *Chao*. However, the Examiner's cited references do not disclose, teach, or suggest "generating first data packets for communicating the first telecommunication information to first customer premises equipment according to a first data communication protocol associated with the first subscriber" and "generating second data packets for communicating the second telecommunication information to second customer premises equipment according to a second data communication protocol associated with the second subscriber," as recited in Claim 72. The Examiner again incorrectly relies on *Focsaneanu* to show this limitation. As described above with reference to Claim 58, *Focsaneanu* does not disclose, teach, or suggest the use of two or more different data communication protocols to generate the data packets for communicating telecommunication information received from a telecommunication network to customer premises equipment. As stated above, *Focsaneanu* teaches away from the present invention by teaching the use of "a common protocol." (Col. 6, ll. 60-65).

For at least these reasons, the Examiner's cited references do not disclose the method of Claim 72. Accordingly, Applicants respectfully request reconsideration and allowance of independent Claims 72, as well as dependent Claims 73-88 which dependent from Claim 72.

**Independent Claim 89 and Dependent Claims 90-99**

Independent Claim 89, as amended, recites:

A system for communicating telecommunication information, comprising:

a memory operable to store subscriber profiles associating each of a plurality of subscribers with a data communication protocol;

a telecommunication interface module operable to receive telecommunication information for a subscriber from a telecommunication network; and

a packetization module operable to generate data packets for communicating the telecommunication information to customer premises equipment according to a data communication protocol associated with the subscriber.

The Examiner rejected Claim 89 under 35 U.S.C. § 103(a) as being unpatentable over *Focsaneanu* further in view of *Chao*. However, the Examiner's cited references do not disclose, teach, or suggest "a packetization module operable to generate data packets for communicating the telecommunication information to customer premises equipment according to a data communication protocol associated with the subscriber," as recited in Claim 89. The Examiner again incorrectly relies on *Focsaneanu* to show this limitation. As described above with reference to Claim 58, *Focsaneanu* does not disclose, teach, or suggest a packetization module that uses a data communication protocol associated with the subscriber to generate the data packets for communicating the telecommunication information from a telecommunication network to customer premises equipment. As stated above, *Focsaneanu* teaches away from the present invention by teaching the use of "a common protocol." (Col. 6, ll. 60-65).

For at least these reasons, the Examiner's cited references do not disclose the system of Claim 89. Accordingly, Applicants respectfully request reconsideration and allowance of independent Claims 89, as well as dependent Claims 90-99 which dependent from Claim 89.

**Independent Claim 100 and Dependent Claims 101-110**

Independent Claim 100, as amended, recites:

A method for communicating telecommunication information, comprising:

associating each of a plurality of subscribers with a data communication protocol;

receiving telecommunication information for a subscriber from a telecommunication network; and

generating data packets for communicating the telecommunication information to customer premises equipment according to a data communication protocol associated with the subscriber.

The Examiner rejected Claim 100 under 35 U.S.C. § 103(a) as being unpatentable over *Focsaneanu* further in view of *Chao*. However, the Examiner's cited references do not disclose, teach, or suggest "generating data packets for communicating the telecommunication information to customer premises equipment according to a data communication protocol associated with the subscriber," as recited in Claim 100. The Examiner again incorrectly relies on *Focsaneanu* to show this limitation. As described above with reference to Claim 58, *Focsaneanu* does not disclose, teach, or suggest the use of a data communication protocols associated with the subscriber to generate the data packets for communicating the telecommunication information. As stated above, *Focsaneanu* teaches away from the present invention by teaching the use of "a common protocol." (Col. 6, ll. 60-65).

For at least these reasons, the Examiner's cited references do not disclose the method of Claim 100. Accordingly, Applicants respectfully request reconsideration and allowance of independent Claims 100, as well as dependent Claims 101-110 which dependent from Claim 100.

#### **Independent Claim 111 and Dependent Claims 112-114**

Independent Claim 111 recites:

A system for communicating telecommunication information, comprising:

a gateway operable to associate each of a plurality of subscribers with a data communication protocol, to receive telecommunication information for subscribers from a telecommunication network, and to generate data packets for communicating each subscriber's telecommunication information to each subscriber's customer premises equipment according to the data communication protocol associated with each subscriber;

a digital subscriber line access multiplexer (DSLAM) operable to communicate at least some of the data packets generated by the gateway to an integrated access device (IAD) using a digital subscriber line; and

a cable modem termination system (CMTS) operable to communicate at least some of the data packets generated by the gateway to a media terminal adapter (MTA) using a cable link.

The Examiner rejected Claim 111 under 35 U.S.C. § 103(a) as being unpatentable over *Focsaneanu* further in view of *Chao*, further in view of *Lor*. However, the Examiner's cited references do not disclose, teach, or suggest "a gateway operable to associate each of a plurality of subscribers with a data communication protocol, to receive telecommunication information for subscribers from a telecommunication network, and to generate data packets for communicating each subscriber's telecommunication information to each subscriber's customer premises equipment according to the data communication protocol associated with each subscriber," as recited in Claim 111. The Examiner again incorrectly relies on *Focsaneanu* to show this limitation. As described above with reference to Claim 58, *Focsaneanu* does not disclose, teach, or suggest a gateway that uses a data communication protocols associated with the subscriber to generate the data packets for communicating the telecommunication information from a telecommunication network to customer premises equipment. As stated above, *Focsaneanu* teaches away from the present invention by teaching the use of "a common protocol." (Col. 6, ll. 60-65).

For at least these reasons, the Examiner's cited references do not disclose the system of Claim 111. Accordingly, Applicants respectfully request reconsideration and allowance of independent Claims 111, as well as dependent Claims 112-114 which dependent from Claim 111.

**Conclusion**

Applicants have made an earnest attempt to place this Application in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request reconsideration and full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact Jeffery D. Baxter, Attorney for Applicants, at the Examiner's convenience at (214) 953-6791.

Applicants believe that no fees are due. However, the Commissioner is hereby authorized to charge any fees or credit any overpayment to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.  
Attorneys for Applicants



Jeffery D. Baxter  
Reg. No. 45,560

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**CORRESPONDENCE ADDRESS:**

2001 Ross Avenue, Suite 600  
Dallas, TX 75201-2980  
Tel. (214) 953-6791  
Fax. (214) 661-4791

Customer Number

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